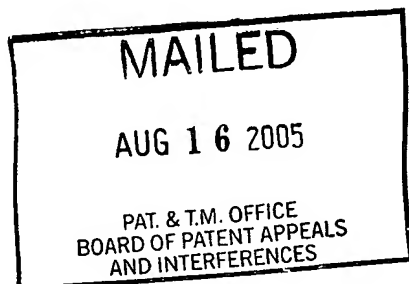




UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Sally C. Medley
Telephone: (571) 272-9797
Facsimile: (571) 273-0042



Applicants: Acosta et al.
Application No.: 10/825,444
Filed: 04/14/04
For: Combined data reader and
electronic article surveillance (EAS)
system

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,327.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

Sally C. Medley
Administrative Patent Judge

INTERFERENCE DIGEST

Interference No. 105,327

Paper No.

Name: Jorge L. Acosta et al.

Serial No.: 10/825,444

Patent No.

Title: Combined data reader and electronic article surveillance (EAS) system

Filed: 04/14/04

Interference with Collins et al.

DECISION ON MOTIONS

Administrative Patent Judge, _____ Dated, _____

FINAL DECISION

Board of Patent Appeals and Interferences, _____ Dated, _____

Court, _____ Dated, _____

REMARKS

This should be placed in each application or patent involved in interference in addition to the interference letters.

Mail Stop Interference
P.O. Box 1450
Alexandria Va 22313-1450
Tel: 571-272-9797
Fax: 571-273-0042

Paper 1

Filed 16 August 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

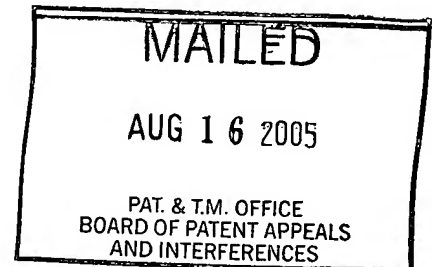
JORGE L. ACOSTA, MICHAEL P. SVETAL, MOHAMED A. SALIM
ROBERT W. RUDEEN, and CRAIG H. BONTLY
Junior Party¹
(Application 10/825,444),

v.

DONALD A. COLLINS, JR., DANIEL B. SEEVERS,
WAYNE L. ORWIG, and SCOTT B. HENRY
Senior Party
(Patent 6,854,647).

Patent Interference No. 105,327
(Technology Center 2800)

DECLARATION - Bd.R. 203(d)



Before Sally C. Medley, Administrative Patent Judge.²

Part A. Declaration of interference

¹ Although the parties' accorded benefit dates are the same, Acosta is named the junior party for purposes of this proceeding.

²As part of Board efforts under the Government Paperwork Elimination Act, signatures on papers originating from the Board are being phased out in favor of a completely electronic record. Consequently, in this case papers originating at the Board will not have signatures. The signature requirements for the parties have not changed. See, e.g., 37 C.F.R. § 10.18.

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

Part B. Judge managing the interference

Administrative Patent Judge Sally C. Medley has been designated to manage the interference. 37 CFR § 41.104(a) [Bd. R. 104(a)].

Part C. Standing order

A Trial Section STANDING ORDER [SO] accompanies this DECLARATION. The STANDING ORDER applies to this interference.

The Board is conducting a DVD pilot project. A copy of the procedure is attached to this order.

Part D. Initial conference call

A telephone conference call to discuss the interference is set for **1:30 p.m. on 12 October 2005** (the Board will initiate the call).

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile (SO ¶ 4.5) a list of the motions (Bd. R. 120; Bd. R. 204; SO ¶ 26) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the STANDING ORDER³. Counsel are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period

³ Default times for time periods 1-10 are attached.

lasts approximately eight (8) months. Counsel should be prepared to justify any request for a shorter or longer period.

The Board is conducting an electronic filing pilot project. A copy of the procedure is attached to this order. Counsel should be prepared to discuss participation in the pilot project.

Part E. Identification and order of the parties

Junior Party

Named inventors: JORGE L. **ACOSTA**, Eugene, Oregon
MICHAEL P. SVETAL, Eugene, Oregon
MOHAMED A. SALIM, Eugene, Oregon
ROBERT W. RUDEEN, Eugene, Oregon
CRAIG H. BONTLY, Eugene, Oregon

Application: 10/825,444, filed 14 April 2004

Title: Combined data reader and electronic article surveillance (EAS) system

Assignee: PSC Scanning, Inc.

Accorded Benefit: 10/062,274, filed 1 February 2002, now patent 6,783,072, granted 31 August 2004

Senior Party

Named Inventors: DONALD A. **COLLINS**, JR., Atlanta, Georgia
DANIEL B. SEEVERS, Lawrenceville, Georgia
WAYNE L. ORWIG, Dacula, Georgia
SCOTT B. HENRY, Loganville, Georgia

Patent: 6,854,647, granted 15 February 2005, based on application 10/061,381, filed 1 February 2002

Title: Checkout device including integrated barcode reader, scale, and EAS system

Assignee: NCR Corporation

Accorded Benefit: none

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1). The senior party is responsible for initiating settlement discussions. SO ¶ 18.

Part F. Count and claims of the parties

Count 1

Acosta 10/825,444 claim 77

The claims of the parties are:

Acosta: 77-83 and 88-93

Collins: 1-17

The claims of the parties which correspond to Count 1 are:

Acosta: 77-83 and 88-93

Collins: 1-17

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Acosta: none

Collins: none

Part G. Heading to be used on papers

The heading in SO Form 1 must be used on all papers filed in this interference.

See SO ¶ 7.2.1. The administrative patent judge and parties must be indicated as follows:

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Administrative Patent Judge Sally C. Medley)

JORGE L. **ACOSTA**, MICHAEL P. SVETAL, MOHAMED A. SALIM
ROBERT W. RUDEEN, and CRAIG H. BONTLY
Junior Party
(Application 10/825,444),

v.

DONALD A. **COLLINS**, JR., DANIEL B. SEEVERS,
WAYNE L. ORWIG, and SCOTT B. HENRY
Senior Party
(Patent 6,854,647).

Patent Interference No. 105,327

Part H. Order form for requesting file copies

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Part E of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

Part I. Required paragraph for affidavits and declarations

The Board has recently experienced a rash of cases in which a witness has belatedly advanced reasons why he or she would be unable to appear for cross examination at a reasonable time and place in the United States. Consequently, the Board is requiring the following paragraph to be included on the signature page of all affidavits (including declarations) filed in this case to prevent surprise and hardship to the party relying on the testimony of the witness:

In signing this affidavit/declaration, I recognize that the affidavit/declaration will be filed as evidence in a contested case before the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office. I also recognize that I may be subject to cross examination in the case and that cross examination will take place within the United States. If cross examination is required of me, I will appear for cross examination within the United States during the time allotted for cross examination.

Enc:

Copy of STANDING ORDER
Form PTO-850
Copy U.S. Patent 6,854,647
Copy of claims of 10/825,444
Copy of U.S. Patent 6,783,072

Revised January 2005

cc (via overnight delivery):

Attorney for Acosta:

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STOEL RIVES LLP
PSC SCANNING, INC.
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Tel: 503-224-3380

Attorney for Collins:

Paul W. Martin
Law Department, WHQ-4
1700 S. Patterson Blvd.
Dayton, OH 45479-0001